

COMMISSIONERS APPROVAL

CHILCOTT *NY*

LUND *all*

THOMPSON *AT*

TAYLOR (Clerk & Recorder)

Date.....December 12, 2005

Members Present.....Commissioner Greg Chilcott, Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board met with Theresa Manzella of Gold Creek Loop in regard to a denial letter she received for a subdivision exemption application. Present at this meeting was Planning Director Patrick O'Herren and Civil Counsel James McCubbin. There were several citizens in the audience, also Mr. Manzella's father who was placed on speaker phone from Florida.

Theresa stated her application is to obtain a family transfer. She stated she received a denial and presented a letter of appeal to the Commissioners. Because Patrick is leaving his position as Planning Director at the first of the year, Theresa wanted to have a face-to-face meeting with the Commissioners. She stated she has a 'real need' for a family transfer. She stated her parents helped her develop her horse facility, and her parents are in their 80's, wishing to move to Montana and have Theresa assists them in their elderly years.

Patrick stated the Clerk and Recorder reviewed the application and family transfers are not allowed in platted subdivisions. This particular property is within Wards Cove, a platted subdivision. After consultation with the County Attorney, Planning Office and Clerk and Recorder, it appears this application is not able to have a subdivision exemption. This is a platted subdivision, and Patrick stated his hands are tied. James stated the exception is for exemptions outside a platted subdivision; therefore it does not meet the legal criteria. The County Attorney is currently reviewing these criteria but the Commissioners do not have a firm answer at this time. Theresa asked if there would be a date that they would have this information. James stated they hoped to have an answer within a couple of weeks. Wards Cove was platted in 1908 and they are reviewing the question if the language from 1908 is the same language that is referred to in the current statute. James stated Deputy County Attorney Karen Mahar is currently reviewing the older laws and that information is not available this date.

Commissioner Chilcott noted the subdivision is platted into streets blocks and alleys. Patrick stated that is correct and it was 'progressive' in that day. Commissioner Chilcott stated this is a legitimate desire to transfer property to family member, but this property does not meet the criteria. Commissioner Thompson stated this is not a discretionary matter, and the Commissioners must follow the law.

James stated they are looking at the language on the actual plat and the County Attorney will give an opinion on that language. Commissioner Lund asked if this exemption is not allowed, would Theresa go through subdivision review.

Theresa asked what the date of the memo was that James circulated on orchard tracks. (That is unknown). James stated the County Attorney had stated there should not be any applications approved on parcels within platted subdivisions. Commissioner Lund stated they did not allow any of these exemptions when she was a Clerk and Recorder. Theresa asked why subdivisions established prior to 1993 were given approval and her application is being denied. Therefore she has some concern as to why her application is being denied and others were approved. Commissioner Lund stated that is a good question. Commissioner Chilcott stated 'sometimes they recognize the law and understand its' meaning, and at that point they are obliged to follow the law'. He stated it is not 'favoritism'. She asked if that could be argued, if her application by the dates overlap with those given the opportunity for family transfer, then that could be arguable in court.

Theresa asked if she would have to go through minor subdivision. Commissioner Lund suggested she wait until George's opinion, and see if that will help her or not. James recommended if George's opinion allow this application to be eligible, then Theresa be given notice, and she have the fee waived for re-submitting. Commissioner Chilcott asked if the county could grant an extension pending George's review. Patrick stated they could accept a letter specifying no fee on re-submittal.

Commissioner Lund again suggested they wait for George's opinion, then the Commissioners can direct planning as to what they would like in regard to fees or requiring Theresa to go through the minor subdivision review. Commissioner Thompson concurred to wait until the County Attorney gave a written opinion. James stated this is an appeal to a Department head's opinion.

It was agreed to wait until County Attorneys' opinion, then Planning Office will contact Theresa.

Theresa stated this is an important issue for her and she appreciates the Commissioners meeting with her today.

Audience Jake Kammerer advised the Board that Tammy Griffith of Missoula has written a master thesis on the laws prior to 1993, which could be beneficial to the county.

In other business, Public Health Nurse Judy Griffin and WIC Coordinator Jackie Cennis met with the Board for an office update and discussion of air quality issues at the Courthouse. Also present at this meeting was Environmental Health Director Theresa Blazicevich. It was agreed that Theresa would contact the state in order to have an occupational hygienist make a site visit to the Courthouse in order to perform an assessment.

The Board also addressed administrative issues that included the following:

The final approval of the Bitterroot Heaven Subdivision was discussed. Present at this meeting was Mr. and Mrs. Skaggs. The Skaggs are asking for a minor deviation on the \$500.00 contribution for each lot (5 lots) for a total of \$2,500.00 because Lot 1 has a house located on it. Mrs. Skaggs stated she bought this property in the early 1990's and the house was already located there.

- The minor deviation asked that the \$500.00 contribution be made on four of the five lots for a total of \$2,000.00
- The Skaggs are asking to be allowed to have a letter of credit for the future paving rather than a bond. They stated they already have the construction (grading, drainage etc.) completed along with the gravel on the road. The next stage is the paving. They were directed by the Planning Office to obtain a letter of credit rather than a bond. Alan Hill of First Security Bank visited with members of the planning staff to obtain the proper language for this letter of credit.
- The third issue is that Mr. and Mrs. Skaggs were overcharged for signs so a refund of \$60.00 is needed by the county.

Commissioner Chilcott stated he has no problem with the minor deviation since the house has been there for over a decade.

Mrs. Skaggs stated the letter of credit reads; 'if the paving is not completed by September, the money for the paving goes directly to the county'.

Now present at this meeting was Planning Director Patrick O'Herren. Patrick stated the Planning Office advises all of the applicants that it is the discretion of the Commissioners to approve of a letter of credit rather than a bond. Letters of credit have been approved in past. Commissioner Chilcott stated it might be a good idea that the applicants address their request for a letter of credit prior to the final approval.

Mrs. Skaggs stated they have already spent \$30,000.00 on the road construction. The cost of paving was estimated at \$22,000.00 and Alan Hill (of the bank) advised them to add another \$3,000.00, just to be safe, bringing the total up to \$25,000.00. Commissioner Chilcott stated his concern is having an estimate of the paving costs, rather than rely on the contractor who bid the costs.

Civil Counsel James McCubbin was now present at this meeting. James stated one issue is that disbursements are called to be done by the Ravalli County Planning Office. The

Planning Office is not a political entity, so the Commissioners would need to become involved in that portion of this issue.

Mr. Hill was then put on conference call for various questions Civil Counsel had. (There were no minutes of this conference call as Glenda was called downstairs for an injury to a citizen).

(Glenda returned and minutes resume as follows). James stated the Commissioner have the following options: not to accept the letter of credit, to accept the letter of credit as is or to accept with amendments. James stated he would like to identify the documents within the form. Mr. Skaggs stated they brought in the bid but it is not in the packet. James stated they need documentation on how much the paving will be. Mr. Skaggs stated they could bring in another copy of the bid.

James stated while they are waiting for the bid, the Commissioners could work on amending the letter from First Security Bank. Mrs. Skaggs stated they already have \$60,000.00 in this project and it is their retirement money. They would be willing to put their house up for collateral if it was necessary.

Commissioner Lund suggested James make the changes on the letter and have the Skaggs take it back to the bank for the final letter. Commissioner Thompson stated he has no problem with the letter of credit as long as they have the cost figures for the paving. He also stated any disbursement and or changes need to reflect the Commissioners as one of the parties. Commissioner Lund concurred.

Commissioner Lund made a motion to allow the minor deviation on the Bitterroot Heaven to accept \$2,000.00 due to the fact that there is an existing home that is already paying taxes and this is consistent with other decisions, and further that the Skaggs be refunded \$60.00 for the signs. Commissioner Thompson seconded the motion. All voted "aye". James will make the revisions to the letter of credit, and tomorrow the Skaggs will bring in the engineering data for the costs of the road along with the corrected letter.

Commissioner Lund made a motion to continue this meeting until December 13<sup>th</sup> at 10:30 a.m. Commissioner Thompson seconded the motion and all voted "aye".

In other administrative matters, Renee Van Hoven addressed the Illinois Bench Estates extension request. She stated Terry Nelson submitted the \$20.00 fee for the extension under the old regulations. The fee is now \$200.00. Previous discussion included utilizing the fees at the time. The extension request was asked for prior to the expiration date. The planning office recommends the request be approved with the applicant paying the additional \$180.00. The Commissioners concurred if they were culpable for the delay, they would not want him to pay these costs. Renee will review the fee increases and bring the information back to the Commissioners. Commissioner Lund made a motion to continue this meeting until December 13<sup>th</sup> at 10:35. Commissioner Thompson seconded the motion and all voted "aye".

In regard to the invoice for engineering invoices for Ron Umera on the Castle Rock Subdivision, it was agreed that these payments be made by the Commissioners' budget.

Commissioner Lund made a motion to accept claims and payroll for November in the amounts of:

- Claims: \$747,518.35
- Payroll: \$787,887.34

Commissioner Thompson seconded the motion and all voted "aye".

Commissioner Lund made a motion to adopt the following budget transfers by Resolution:

- Resolution No. 1751 for Fiscal Year 2005 in the amount of \$85,300.00 within the Road Department
- Resolution No. 1752 for Fiscal Year 2006 in the amount of \$300.00 within the Treasurer's Office
- Resolution No. 1753 for Fiscal Year 2006 in the amount of \$32,000.00 for Capital Improvement for computers reserve, building generators reserves and building fire suppression reserves
- Resolution No. 1754 for Fiscal Year 2006 in the amount of \$1,000.00 for Capital Improvement in the Treasurer's Office
- Resolution No. 1755 for Fiscal Year 2006 in the amount of \$46.00 in the Clerk and Records Office
- Resolution No. 1756 for Fiscal Year 2006 in the amount of \$200.00 in the Maintenance Department for \$200.00
- Resolution No. 1757 for Fiscal Year 2005 in the amount of \$18,100.00 for a local match with Montana Department of Transportation
- Resolution No. 1758 for Fiscal Year 2005 for various end of the year budget transfers
- Resolution No. 1759 for Fiscal Year 2005 for various end of the year budget transfers
- Resolution No. 1760 for Fiscal Year 2005 for revenue from a Montana Department of Transportation Grant
- Resolution No. 1761 for Fiscal Year 2005 in the amount of \$260.00 for interest expense at the U.S.F.S. Operations Building
- Resolution No. 1762 for Fiscal Year 2005 in the amount of \$1,458.00 for the Local Government Study Commission

Commissioner Thompson seconded the motion and all voted "aye"

Commissioner Lund made a motion to accept July 11 – July 22<sup>nd</sup> as corrected.

Commissioner Thompson seconded the motion and all voted "aye".